

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Requests for Review of the Decision of the)
Universal Service Administrative Company by)
)
Aikahi Elementary School) File No. SLD-142759
Kailua, Hawaii)
)
Enchanted Lake Elementary School) File No. SLD-142755
Kailua, Hawaii)
)
Kane'ohe Elementary School) File No. SLD-142123
Kane'ohe, Hawaii)
)
Keolu Elementary School) File No. SLD-142877
Kailua, Hawaii)
)
Niu Valley Intermediate School) File No. SLD-142929
Honolulu, Hawaii)
)
Waikiki Elementary School) File No. SLD-142919
Honolulu, Hawaii)
)
Federal-State Joint Board on Universal Service) CC Docket No. 96-45
)
Changes to the Board of Directors of the National) CC Docket No. 97-21
Exchange Carrier Association, Inc.)

ORDER

Adopted: September 8, 2000

Released: September 11, 2000

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division (Division) has under consideration Letters of Appeal filed by Aikahi Elementary School, Kailua, Hawaii; Enchanted Lake Elementary School, Kailua, Hawaii; Kane'ohe Elementary School, Kane'ohe, Hawaii; Keolu Elementary School, Kailua, Hawaii; Niu Valley Intermediate School, Honolulu, Hawaii; and Waikiki Elementary School, Honolulu, Hawaii (collectively, the Hawaii Schools).¹ The Hawaii Schools request review of decisions by the Schools and Libraries

¹ Letter from Les Goto, State of Hawaii, Department of Education, on behalf of Aikahi Elementary School, to the Federal Communications Commission, filed May 15, 2000; Letter from Les Goto, State of Hawaii, Department of Education, on behalf of Enchanted Lake Elementary School, to the Federal Communications Commission, filed May 23, 2000; Letter from Les Goto, State of Hawaii, Department of Education, on behalf of Kane'ohe Elementary School, to the Federal Communications Commission, filed May 22, 2000; Letter from Les Goto, State of Hawaii, Department of Education, on behalf of Keolu Elementary School, to the Federal (continued....)

Division (SLD) of the Universal Service Administrative Company to deny the Hawaii Schools' applications for discounted services under the schools and libraries universal service support mechanism.² For the reasons set forth below, we deny the Letters of Appeal and affirm SLD's denial of the Hawaii Schools' applications.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ The Commission's rules provide that, with one limited exception for existing, binding contracts, an eligible school, library or consortium that includes eligible schools or libraries must seek competitive bids for all services eligible for support.⁴ In accordance with the Commission's rules, an applicant must file with SLD, for posting to its website, an FCC Form 470 requesting services.⁵ The applicant must wait 28 days before entering into an agreement with a service provider for the requested services and submitting an FCC Form 471 requesting support for

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Communications Commission, filed May 19, 2000; Letter from Les Goto, State of Hawaii, Department of Education, on behalf of Niu Valley Intermediate School, to the Federal Communications Commission, filed May 22, 2000; Letter from Les Goto, State of Hawaii, Department of Education, on behalf of Waikiki Elementary School, to the Federal Communications Commission, filed May 22, 2000. Each Letter of Appeal raises the same arguments, and we do not distinguish between the six appeals in this Order.

² Letter from Schools and Libraries Division, Universal Service Administrative Company, to Les Goto, Aikahi Elementary School, dated Sep. 8, 1999; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Les Goto, Aikahi Elementary School, dated May 3, 2000; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Les Goto, Enchanted Lake Elementary School, dated Jul. 8, 1999; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Les Goto, Enchanted Lake Elementary School, dated May 4, 2000; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Les Goto, Kane'ohe Elementary School, dated Jul. 8, 1999; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Les Goto, Kane'ohe Elementary School, dated May 4, 2000; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Les Goto, Keolu Elementary School, dated Aug. 31, 1999; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Les Goto, Keolu Elementary School, dated May 4, 2000; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Les Goto, Niu Valley Intermediate School, dated Jul. 8, 1999; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Les Goto, Niu Valley Intermediate School, dated May 4, 2000; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Les Goto, Waikiki Elementary School, dated Jul. 8, 1999; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Les Goto, Waikiki Elementary School, dated May 4, 2000.

³ 47 C.F.R. §§ 54.502, 54.503.

⁴ 47 C.F.R. §§ 54.504, 54.511(c) (exempting from competitive bidding requirements (1) contracts signed before July 10, 1997, for the life of the contract; and (2) in Year 1 only, contracts signed between July 10, 1997, and the opening of the Administrator's website on January 30, 1998); *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, DA 99-1773, 1999 WL 680424 (Com. Car. Bur. 1999), para. 10 (permitting support for contracts signed in a prior funding year pursuant to the Commission's competitive bidding requirements).

⁵ See Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (FCC Form 470).

the services ordered by the applicant.⁶ Further, the instructions for the FCC Form 471 state that the date of signature for the FCC Form 471 “CANNOT be earlier than the 29th day following the posting of the associated FCC Form 470 to the [SLD] Web Site.”⁷

3. Upon review of the record, the Division concludes that SLD correctly denied the Hawaii Schools’ requests for support. A signature date on an FCC Form 471 or on a service provider agreement that pre-dates the expiration of the 28-day posting period indicates that the applicant failed to wait 28 days before entering into an agreement with a service provider and therefore violated the Commission’s competitive bidding rules.⁸ The Common Carrier Bureau has consistently denied requests for review by applicants that had similarly violated the Commission’s competitive bidding rules.⁹

4. We reject the Hawaii Schools’ claim that a “typographical error” should not cause the denial of funding. The Hawaii Schools claim that they inadvertently included a February 1, 1999, contract start date in their FCC Form 471s, which pre-dates the allowable start date of February 24, 2000. In light of the thousands of applications that SLD reviews and processes each funding year, it is administratively necessary to place on the applicant the responsibility of understanding the Commission’s rules and procedures and carefully and accurately completing the relevant FCC Forms.¹⁰ The Division, therefore, denies the Hawaii Schools’ Letters of Appeal.

5. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission’s rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the above-captioned appeals filed by Aikahi Elementary School, Kailua, Hawaii, Enchanted Lake Elementary School, Kailua, Hawaii, Kane’ohe Elementary School, Kaneohe, Hawaii, Keolu Elementary School, Kailua, Hawaii, Niu Valley Intermediate School, Honolulu, Hawaii, and Waikiki Elementary School, Honolulu, Hawaii, ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Sharon L. Webber

⁶ 47 C.F.R. § 54.504(c); *see* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (FCC Form 471).

⁷ Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (December 1998) at 24 (FCC Form 471 Instructions).

⁸ *See Minor High School*, CC Docket Nos. 96-45 and 97-21, Order, FCC 00-1612, para. 4 (rel. July 20, 2000).

⁹ *See Cathedral Grade School*, CC Docket Nos. 96-45 and 97-21, Order, DA 99-2953 (rel. December 21, 1999); *Currituck County Schools*, CC Docket Nos. 96-45 and 97-21, Order, DA 00-625 (rel. March 23, 2000); *Gustine Independent School District*, CC Docket Nos. 96-45 and 97-21, Order, DA 99-2534 (rel. November 16, 1999).

¹⁰ Even if a “typographical error” could serve as the basis for appealing a decision of SLD, the record belies the Hawaii School’s claim that they inadvertently included the February 1, 1999, contract start date in their FCC Form 471s. In particular, a February 1, 1999 start date for the contract listed in the Hawaii Schools’ FCC Form 471s was confirmed in subsequent correspondence between the Hawaii Schools and SLD. *See* facsimile transmission from Les Goto, State of Hawaii, Department of Education, to Debbie Wilburn, Schools and Libraries Division, trans. Jul. 7, 1999.

Deputy Chief, Accounting Policy Division
Common Carrier Bureau